



FAQ

H.R. 5, THE EQUALITY ACT

1) Why is this bill necessary? Isn't discrimination already illegal?

- Only 21 states have explicit laws barring discrimination based on sexual orientation in employment, housing and public accommodations, and only 20 states have such protections for gender identity.
- Recent national surveys of LGBTQ people that show 42% of lesbian, gay, and bisexual people, and 78% of transgender people, have experienced discrimination or harassment on the job because of who they are.
- The Equal Employment Opportunity Commission and some federal courts have interpreted the "sex" provisions of Title VII of the Civil Rights Act of 1964 to include protections for sexual orientation and gender identity. However, the Supreme Court has yet to address this issue and not all areas of federal civil rights law, including for public accommodations and federally funded programs, have protections for sex.

2) Why is it necessary to amend existing civil rights law?

- Amending existing civil rights law provides clarity and consistency for individuals who experience discrimination as well as for businesses and organizations trying to comply with the law. All existing obligations and

exemptions will apply in exactly the same way even as sexual orientation and gender identity are explicitly added to the law.

3) Doesn't this bill just give LGBTQ people special rights?

- There is nothing “special” about the protections created by the Equality Act. The bill simply embodies the longstanding, deeply American principle that people should be judged on their merits not their identity. It adds to the longstanding federal protections for individuals based on race, sex, religion or national origin.

4) Will this bill give men access to female spaces such as bathrooms and locker rooms, putting women at risk?

- The Equality Act does not allow men to access facilities for women. Sex nondiscrimination provisions have been applied to workplaces since the 1960s and the law has never been interpreted to allow men into women's restrooms or locker rooms.
- The Equality Act requires that transgender men be permitted to use male facilities and that transgender women be permitted to use female facilities.
- Everyone – including transgender people – needs to be able to use the bathroom in safety and peace.
- Ensuring that transgender people have access to gender-appropriate facilities does not put women and girls at risk. More than 200 national, state, and local organizations dedicated to ending sexual assault and domestic violence issued a letter in opposition to a North Carolina law

that barred transgender people from access restrooms consistent with their gender identity stating that “discriminating against transgender people does nothing to decrease the risk of sexual assault.”

5) Will this bill force people to have LGBTQ roommates?

- The Equality Act includes strong protections and exemptions for private property owners and individuals renting a space in their own home. The Fair Housing Act includes exemptions for both owner-occupied rental housing, which has four or fewer units, as well as individual roommate arrangements.
- The Equality Act would not alter these protections and homeowners and individuals seeking a roommate could continue to make these choices without being in violation of the FHA.

6) Will religious organizations and private clubs be forced to rent space and housing to LGBTQ people and women?

- The Equality Act adds sex, sexual orientation and gender identity to the Fair Housing Act to Title II of the Civil Rights Act of 1964 which prohibits discrimination in places of public accommodation. It does not alter existing religious or private organization exemptions which currently exempt religious entities and private clubs from compliance with the law as long as they are not operating lodging or housing for commercial use.
- Under public accommodations law, religious and private organizations are not considered places of public accommodation provided that they limit rentals or services their membership.

7) Will this bill hurt women-only programming and activities?

- Gender specific programs to overcome the effects of past discrimination have generally not been considered to constitute sex discrimination either in federal laws that have nondiscrimination protections for sex or in corollary state laws.
- The Equality Act would advance equal treatment of women in gender integrated spaces.

8) Will bakers, photographers, and other small businesses be forced to participate in religious ceremonies or provide services that are against their religious beliefs?

- Small businesses are free to pick the goods and services that they wish to provide, but cannot discriminate against customers based upon their identity. A bakery can limit their services to birthday cakes, but if they open their doors to the public, they need to serve everyone on an equal basis.

9) Does this bill address the Trump Administration's ban against transgender troops serving in the military?

- Current civil rights law does not apply to the military, and the Equality Act only amends existing law.
- The Equality Act does not address the Administration's ban on transgender troops, however, other bills have been introduced to address this problem.

10) Will clergy be forced to perform ceremonies that violate their religious beliefs?

- Clergy operating in their ministerial capacity will remain free to preach consistent with their religious beliefs and will not have to perform ceremonies such as weddings, baptisms, or funerals that conflict with their religious beliefs.

11) Does the Equality Act impact non-LGBTQ people?

- Family and friends of LGBTQ people will be protected from discrimination and harassment because of their association with LGBTQ people.
- The Equality Act provides protections on the basis of sexual orientation and gender identity for everyone, not just LGBTQ people. Though discrimination against non-LGBTQ people based on sexual orientation or gender identity is uncommon, the bill provides recourse if it does happen. For example, a bar that caters to gay clientele couldn't fire a server just because he is straight.
- The Equality Act also provides other important nondiscrimination protections for everyone. It will close longstanding gaps in protections against sex discrimination and correct existing gaps in the kinds of entities included in public accommodations as defined in our civil rights laws.

12) Will this bill affect businesses in my state?

- Support for the Equality Act is wide spread among businesses. More than 160 corporations have endorsed the legislation.
- The Equality Act provides consistency and clarity in the law, which is highly valued by businesses.
- There will not be a flood of litigation. A study conducted by the Williams Institute at UCLA Law School analyzed the per capita rate of complaints filed under these state laws based sexual orientation, and found the rates were similar to the per capita rates of complaints based on sex and race.

13) Why aren't there religious exemptions in the bill?

- Federal civil rights law and the U.S. Constitution provide many exemptions for religious organizations.
- The Equality Act adds sexual orientation and gender identity to federal civil rights law and sex where it is missing. The same statutory exemptions that are already in place in the Civil Rights Act and the Fair Housing Act will remain in place and the U.S. Constitution remains untouched.
- The expansion of public accommodations gives people of faith greater rights to be free from discrimination in public places and spaces.

14) Does the bill attack religious freedom? It seems to eliminate the Religious Freedom Restoration Act.

- Federal civil rights law and the U.S. Constitution provide many exemptions for religious organizations. The statutory exemptions that are already in place in the Civil Rights Act and the Fair Housing Act will remain in place and the U.S. Constitution remains untouched.
- The Equality Act does not repeal the Religious Freedom Restoration Act (RFRA). It affirms that the government has a compelling interest in eradicating discrimination by removing RFRA as a defense to discrimination.
- RFRA will still be available to address burdens on religious beliefs and practices in other contexts. In 2016, a Native American pastor won the right to use eagle feathers in religious ceremonies even though possession of the feathers violated a federal law. In 2014, a Sikh woman won settlement that resulted in the federal government changing its policies to ensure that Sikhs federal employees have the right to carry an article of their faith which looks like a blunt knife into federal buildings.
- Any individual or organization that is concerned that their religious beliefs or practices are being unjustly burdened retain the ability to bring a claim under the First Amendment.